



#3

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(d)) - NON-PROFIT ORGANIZATION

I hereby declare that I am an official empowered to act on behalf of National Jewish Center for Immunology and Respiratory Medicine, a Colorado nonprofit organization with a place of business at 1400 Jackson Street, Denver, Colorado 80206, a:

- ☐ UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION
☐ TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) AND 501(c)(3))
☒ NON-PROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA
(NAME OF STATE Colorado)
(CITATION OF STATUTE Colo. Rev. Stat. § 7-20-102(10)(1986))
☐ WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) AND 501(c)(3)) IF LOCATED IN THE UNITED STATES OF AMERICA
☐ WOULD QUALIFY AS NON-PROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA IF LOCATED IN THE UNITED STATES OF AMERICA
(NAME OF STATE _____)
(CITATION OF STATUTE _____)

I hereby declare that the non-profit organization identified above qualifies as a non-profit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled "NOVEL EMBRYONIC CELL POPULATIONS AND METHODS TO ISOLATE SUCH POPULATIONS and identified as Attorney File No. 2879-26, described in application Serial No. 08/343,686, filed on November 21, 1994.

I hereby declare that rights under contract or law have been conveyed to and remain with the non-profit organization with regard to the above-identified invention.

If the rights held by the non-profit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a non-profit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME _____

ADDRESS _____

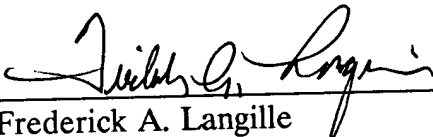
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NON-PROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Date: 2-15-95

By: _____


Frederick A. Langille
Executive Vice President
and Chief Operating Officer
1400 Jackson Street, BB M207
Denver, Colorado 80206

#3

RULE 63 (37 CFR § 1.63)
DECLARATION FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "NOVEL EMBRYONIC CELL POPULATIONS AND METHODS TO ISOLATE SUCH POPULATIONS, the specification of which has been prepared and filed on November 21, 1994, receiving Serial No. 08/343,686, and further identified as Attorney File No. 2879-26.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 CFR 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s) Number	Country	Day/Month/Year Filed	Priority Claimed Yes	No
N/A				

I hereby claim the benefit under 35 U.S.C. 120/365 of all United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 CFR 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status: patented, pending, abandoned
None		

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1) Inventor's Signature *Gordon Keller* Date Feb 15/95

1-00 Inventor's Name (typed): Gordon ^{MICK} Keller

Citizenship: Canada

Residence: 2090 Ash Street
Denver, Colorado 80207 CO

Post Office Address*: Same as Residence

2-00 2) Inventor's Signature *Marion Kennedy* Date Feb 15/95

Inventor's Name (typed): Marion Kennedy

Citizenship: Canada

Residence: 2090 Ash Street
Denver, Colorado 80207 CO

Post Office Address*: Same as Residence

3) Inventor's Signature *Kyunghee Choi* Date 2-15-95

3-00 Inventor's Name (typed): Kyunghee Choi

Citizenship: Korea

Residence: 1121 Albion Street, Apt. 304
Denver, Colorado 80220 CO

Post Office Address*: Same as Residence

4) Inventor's Signature *Meri Firpo* Date 2/15/95

4-00 Inventor's Name (typed): Meri T. Firpo

Citizenship: U.S.A.

Residence: 1426 E. 8th Ave., Apt. 30
Denver, Colorado 80218 CO

Post Office Address*: Same as Residence

*Complete Post Office Address in full if different from Residence, otherwise indicate that the Post Office Address is "Same as Residence."

37 CFR §1.56(a) and (b)
DUTY TO DISCLOSE INFORMATION MATERIAL
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.*

*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."